

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE G. ECONOMIC DEVELOPMENT PROGRAMS INVOLVING BOTH STATE AND
LOCAL GOVERNMENTS

CHAPTER 2302. COGENERATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2302.001. DEFINITIONS. In this chapter:

(1) "Cogenerating state agency" means a state agency that has constructed or operates a state agency cogeneration facility.

(2) "Commission" means the Public Utility Commission of Texas.

(3) Repealed by Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(1), and Ch. 755 (S.B. 1731), Sec. 14(c)(1), eff. September 1, 2017.

(4) "Firm power" means power or power-producing capacity that, under an enforceable obligation, is available to the purchasing party according to a schedule over a specified term.

(5) "Nonfirm power" means power provided under an arrangement that does not guarantee that power will be available according to a schedule but provides instead for delivery of power as it is available.

(6) "Qualifying facility" means a qualifying small power production facility or a qualifying cogeneration facility as defined by Sections 3(17)(C) and 3(18)(B) of the Federal Power Act (16 U.S.C. Sections 796(17)(C) and 796(18)(B)).

(7) "State agency" means an office, department, commission, or board of any branch of state government or an institution of higher education as defined by Section 61.003, Education Code.

(8) "State agency cogeneration facility" means a qualifying facility constructed or operated by a state agency for the benefit of a state agency facility that is located adjacent to or on property contiguous with the site of the qualifying facility. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(1), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 14(c)(1), eff. September 1, 2017.

SUBCHAPTER B. COGENERATION

Sec. 2302.021. STATE AGENCY COGENERATION PROJECTS. (a) Repealed by Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(3), and Ch. 755 (S.B. 1731), Sec. 14(c)(3), eff. September 1, 2017.

(b) A state agency cogeneration facility's size and design is limited to the size and design that is necessary to supply economically the cogenerating state agency, considering the optimum balance of annual thermal and electrical energy requirements and any expansions anticipated in the near future.

(c) This section does not apply to a state agency cogeneration facility if, before September 1, 1987:

- (1) the facility was in operation;
- (2) the facility's final engineering design had been completed; or
- (3) construction of the facility had begun.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 4(c)(3), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 14(c)(3), eff. September 1, 2017.

Sec. 2302.023. JOINT COGENERATION PROJECTS. Subject to this chapter, two or more state agencies may jointly construct or operate a state agency cogeneration facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.024. AUTHORITY TO SELL POWER. A cogenerating state agency may contract in the same manner as a qualifying

facility for the sale to an electric utility of firm or nonfirm power produced by the state agency cogeneration facility that exceeds the agency's power requirements.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. [526](#)), Sec. 4(b), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 14(b), eff. September 1, 2017.

Sec. 2302.025. MONEY FROM POWER SALES. (a) A state agency shall first apply money it collects from the sale of firm or nonfirm power to retire any outstanding debt and pay operating expenses that result from constructing and maintaining the state agency cogeneration facility.

(b) A state agency shall deposit to the credit of the general revenue fund any money it collects under this chapter that exceeds the amount needed to service the debt and pay the operating expenses of the state agency cogeneration facility.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

SUBCHAPTER C. ENFORCEMENT

Sec. 2302.041. COOPERATION WITH COGENERATING STATE AGENCIES. A political subdivision, municipality, or agency of the state that operates, maintains, or controls a facility that provides retail electric utility service:

(1) shall cooperate with a cogenerating state agency that attempts to sell firm or nonfirm power; and

(2) may not adopt rates, pricing policies, access restrictions, or other rules inconsistent with the intent of this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.042. PETITION FOR ENFORCEMENT. (a) A state agency may file a petition with the commission to enforce Section [2302.041](#).

(b) Notwithstanding any other law, if a state agency files a petition under this section, the commission may determine issues relating to rates, pricing policies, access restrictions, and other matters regarding a state agency cogeneration facility as necessary to enforce Section 2302.041.

(c) The commission retains jurisdiction until the commission by final order resolves the issues raised in the petition.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2302.043. ORDER OR RULING. (a) A commission order or ruling entered under this chapter is considered to have been entered or adopted under the Public Utility Regulatory Act of 1995.

(b) A commission order or ruling entered under this chapter is enforced under Subtitle I, Title I, Public Utility Regulatory Act of 1995.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 765, Sec. 2.24, eff. Sept. 1, 1995.

Sec. 2302.044. JURISDICTION. This chapter does not enlarge or modify the commission's jurisdiction over a political subdivision, municipality, or agency of the state.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.